

APR 12/2013

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE GAMBLING COMMISSION

GAMBLING COMMISSION  
COMM & LEGAL DIVISION

In the Matter of the Suspension or Revocation  
of the License to Conduct Gambling Activities  
of:

PEE WEE TAVERN,  
Tacoma, Washington  
License No. 05-21045

Licensee.

OAH Docket No. 2013-GMB-0011

WSGC No. CR 2012-01417

INITIAL ORDER

1. HEARING:

1.1 This case came before Administrative Law Judge Douglas H. Haake for an administrative hearing on March 28, 2013, at the Washington State Gambling Commission Hearing Room in Lacey, Washington, after due and proper notice to all parties. The hearing was digitally recorded.

1.2 Pee Wee Tavern, Licensee, appeared through Jonathan Haycook, owner.

1.3 The Washington State Gambling Commission (Commission) appeared through legal counsel, Stephanie U. Happold, Assistant Attorney General.

1.4 Cameron Baker, Research Analyst II and Special Agent Elmer Holland, appeared and testified on behalf of the Commission.

1.5 The Commission presented 7 exhibits, all of which were admitted

2. STATEMENT OF THE ISSUES:

2.1 Whether the Commission correctly determined to revoke Pee Wee Tavern's punch board/pull tab license?

3. FINDINGS OF FACT:

3.1 At all relevant times, Pee Wee Tavern held a punch board/pull tab license.

3.2 Research Analyst II Cameron Baker is employed by the Washington Gambling Commission in the Financial Investigations unit. His duties include creating, sending and receiving activity reports from licensees. In that capacity, he is familiar with

Quarterly Activity Reports (QAR) and the requirement for filing activity reports with the Commission. Cameron Baker testimony.

3.3 QARs are required to be filed two times per year by licensees with filing requirements. Pull tab licensees are required to file. Filings for the first and second quarters are due 30 days after the end of the second quarter or July 30. Filings for the 3<sup>rd</sup> and 4<sup>th</sup> quarters are due January 30.

3.4 The Commission and the legislature use information reported in QARs to regulate the industry. *Id.* Late filed reports create discrepancies that need to be investigated for wrongdoing, and to assist new employees with correct reporting. *Id.*

3.5 Pee Wee Tavern is owned by John Haycook. The tavern has a Punch board/pull tab license, which will expire on June 30, 2013. *Id.* Pee Wee Tavern failed to file its QARs for the third and fourth quarters of 2011. On February 10, 2012, the Commission sent a letter to Pee Wee Tavern notifying it of the discrepancy and reminding it how to meet the reporting requirements. Exhibit 4. The Commission offered to waive penalties if the QAR was submitted by February 29, 2012. *Id.*

3.6 On February 28, 2012, the commission received a handwritten QAR from Pee Wee Tavern, reporting its punchboard and pull tab activities for the 3<sup>rd</sup> and 4<sup>th</sup> quarter of 2011. Exhibit 5. This QAR was filed 29 days late. Exhibit 6.

3.7 Pee Wee Tavern was required to report its activities for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2012 by July 30, 2012. Exhibit 6. 3<sup>rd</sup> and 4<sup>th</sup> quarter QARs were due January 1, 2013. Pee Wee Tavern's QARs were not timely filed. On August 14, 2012, the Commission served a Notice of Violation and Settlement on Pee Wee Tavern, by giving a copy to the bartender, for failing to timely file QARs for 2012. Exhibit 3.

3.8 The Notice of Violation and Settlement process was created in 2005 as an easier way for the Commission to notify violators of their violations. Cameron Baker testimony. There is a \$300 first notice fine associated with the citation, which was paid on October 18, 2012. *Id.* The missing QARs were not received by the commission with the fine.

3.9 The Commission finally received the missing QARs on the hearing date, March 28, 2013. Exhibit 7. Pee Wee Tavern's QARs for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2012 were 241 days late; the QARs for the 3<sup>rd</sup> and 4<sup>th</sup> quarters were 57 days late. Exhibit 6.

3.10 Special Agent Elmer Holland has been with the Commission 22 years. He has participated in training by the Washington State Law Enforcement Academy and in-house trainings. Special Agent Holland testimony. His duties include field operations, which involve enforcing regulations for the southwest region of Washington. *Id.*

3.11 Pee Wee Tavern is one of the licensees Special Agent Holland is assigned to

regulate. He had previously spoken to John Haycook by phone and knew him to be the owner. *Id.*

3.12 On August 13, 2012, Special Agent Holland received a referral from the Commission's Financial Reporting Section concerning Pee Wee Tavern's late QARs. *Id.* On August 14, 2012, he went to Pee Wee Tavern and issued a Violation and Settlement citation, which was signed for by the bartender. Exhibit 3; Special Agent Holland testimony. He talked to the owner by phone the following day. *Id.*

3.13 On September 28, 2012, Special Agent Holland checked with the Commission's Business Operations Section to see if the fine had been paid. *Id.* On October 4, 2012, he called Mr. Haycook to ask whether Mr. Haycook had sent in the payment. *Id.* When Mr. Haycook had not paid the fine by October 15, 2012, Special Agent Holland prepared a report recommending suspension or revocation of Pee Wee Tavern's license.

3.14 Mr. Haycook attempted to enter the required information online. However, his every attempt failed due to error messages when he entered his password. Jonathan Haycook testimony. *Id.* Mr. Haycook works two jobs and is unable to get time off to contact the Commission by phone. He has not made any efforts to contact the Commission by letter or in other manners. *Id.* He was finally able to key in the QAR report online today because he took time off work to participate in the hearing. *Id.*

#### 4. CONCLUSIONS OF LAW:

##### *Jurisdiction*

4.1 Office of Administrative Hearings has jurisdiction over the person and subject matter herein pursuant to RCW 9.46.140, Chapter 34.05 RCW, and Title 230.

##### *Burden Of Proof*

4.2 Licensees bear the burden of establishing their qualifications by clear and convincing evidence. RCW 9.46.153(1). Each applicant and holder of a license issued pursuant to Chapter 9.46 RCW is subject to continuous scrutiny regarding his/her general character, integrity, and ability to engage in or participate in, or associate with, gambling or related activities impacting this state. RCW 9.46.153.

##### *Legislative Intent*

4.3 The legislative intent expressed in RCW 9.46.010 provides in relevant part: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities by strict regulation and control." The statute further provides: "All factors incident to the activities authorized in this chapter shall be closely

controlled, and the provisions of this chapter shall be liberally construed to achieve such end." In short, those persons who wish to work in this highly regulated industry are held to the very highest character and integrity standards.

#### *License Suspension and Revocation*

4.4 RCW 9.46.075(1) and WAC 230-03-085(1), (3), and (7), provide that the Commission may revoke a license for any reason which it finds is in the public interest, including where the licensee has violated or failed or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed under Chapter 9.46 RCW or any rules adopted by the Commission under law.

4.5 WAC 230-03-085(3), provides that the Commission may suspend a gambling license when the license holder has demonstrated willful disregard of federal, state or local laws, administrative rules, and the lawful orders of administrative bodies and courts with jurisdiction to enforce such laws and rules.

4.6 WAC 230-03-085(7), provides that the Commission may suspend a gambling license when the licensee fails to provide us with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us;

4.8 WAC 230-14-284 provides in pertinent part that:

Punch boards and pull-tab licensees must submit an activity report to the commission. Licensees must complete the report in the format we require and must:

(1) Cover the periods:

(a) January 1 through June 30; and

(b) July 1 through December 31; and

(2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period; and...

#### *Analysis*

4.9 Here, Pee Wee Tavern has failed for the past six quarters to timely file required reports of its activity with the Commission. Two of the late reports were filed only after Pee Wee Tavern was given a citation and paid a fine. It did not file its 2012 reports until the hearing date on March 28, 2013, which made one of the reports roughly 2/3rds of a year late. As such, Pee Wee Tavern has shown a willful disregard for the Commission's

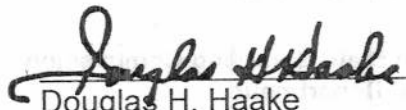
administrative rules. Pursuant to the foregoing rules, Pee Wee Tavern's punch board/pull tab license is revoked.

5. INITIAL ORDER:

IT IS HEREEY ORDERED,

Pursuant to law and public interest, Pee Wee Taverns Punch board/pull tab license is hereby revoked.

SERVED on the date of mailing.

  
Douglas H. Haake  
Administrative Law Judge  
Office of Administrative Hearings

NOTICE TO THE PARTIES OF APPEAL RIGHTS

You may file an appeal of this order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); see also WAC 230 -17 -030(2), WAC 230 -17 -035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.

Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the Commission. WAC 230 -17 -090(5). If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

If a party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days and render a final order.

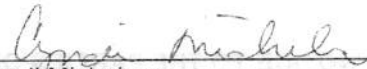


**Certificate of Service – OAH Docket No. 2013-GMB-0011**

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

<b>Pee Wee Tavern</b> 7052 Pacific Avenue Tacoma WA 98498	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
<b>Stephanie U. Happold</b> Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia WA 98504-0100	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
<b>Washington State Gambling Commission</b> ATTN: Legal Department PO Box 42400 Olympia WA 98504	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt

Date: April 11, 2013

  
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Cyndi Michelena  
Office of Administrative Hearings